

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 JOSE MANUEL DIAZ,

4 Plaintiff

5 v.

6 STATE OF NEVADA,

7 Defendant

Case No. 2:23-cv-00791-APG-DJA

**Order Dismissing Petition
Without Prejudice**

[ECF No. 1-1]

8 *Pro se* Petitioner Jose Manuel Diaz filed a Petition for Writ of Habeas Corpus. ECF No.
9 1-1 (“Petition”). Diaz did not properly commence this habeas action by either paying the
10 standard \$5.00 filing fee or filing an application for leave to proceed *in forma pauperis* (“IFP”).
11 Further, Diaz filed his Petition on a state-court postconviction form rather than the appropriate
12 28 U.S.C. § 2254 form. On May 23, 2023, I gave Diaz until July 7, 2023, to (1) either pay the \$5
13 filing fee or submit a complete IFP application with all required documentation and (2) file an
14 amended petition on the appropriate form. ECF No. 3. Diaz was warned that “failure to timely
15 comply . . . will result in the dismissal of this action without prejudice and without further
16 advance notice.” *Id.* at 2. The July 7, 2023, deadline has expired, and Diaz has not filed an IFP
17 application, paid the \$5 filing fee, filed an amended petition, requested an extension of time, or
18 taken any other action to prosecute this case.

19 I THEREFORE ORDER that this action is **dismissed without prejudice** based on
20 Petitioner Jose Manuel Diaz’s failure to comply with my May 23, 2023, order [ECF No. 3]. A
21 certificate of appealability is denied, as jurists of reason would not find dismissal of the petition
22 for the reasons stated herein to be debatable or wrong.
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1 I FURTHER ORDER that the Clerk of Court (1) file the petition (ECF No. 1-1), (2) add
2 Nevada Attorney General Aaron D. Ford as counsel for Respondents,¹ (3) informally serve the
3 Nevada Attorney General with the petition (ECF No. 1-1), this order, and all other filings in this
4 matter by sending a notice of electronic filing to the Nevada Attorney General's office, (4) enter
5 final judgment, and (5) close this case.

6 DATED this 17th day of July, 2023.

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9 ANDREW P. GORDON
10 UNITED STATES DISTRICT JUDGE
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¹ No response is required from Respondents other than to respond to any orders of a reviewing court.